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19 IN THE UNITED STATES DISTRICT COURT
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21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
22
23 SAN FRANCISCO DIVISION

24
25 **MARK M. LOWE,**

26 Petitioner,

27 C 08-005 SI (pr)

28 **ANSWER TO ORDER TO SHOW
CAUSE**

30 v.

31 **JIMMY WALKER, Warden,**

32 Respondent.

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34 Respondent provides this answer to the Order to Show Cause why the petition for writ of
35 habeas corpus should not be granted.

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37 **I.**

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39 **CUSTODY**

40 Petitioner is lawfully in the custody of Jimmy Walker, Warden of California State
41 Prison, Sacramento, as a result of a conviction by a Contra Costa County court of continual
42 sexual abuse of a child under 14 years of age, sodomy of a child under 14 years of age with a 10
43 year age difference, and 39 counts of lewd and lascivious conduct with a child under 14 years of
44 age. The trial court sentenced petitioner to 585 years to life in prison.

II.

PROCEDURAL ISSUES

The claims in the petition are exhausted. The petition is timely within the meaning of 28 U.S.C. § 2244(d).

III.

GENERAL AND SPECIFIC DENIALS

7 Respondent denies that the state court's ruling was based on an unreasonable
8 determination of fact or was contrary to or involved an unreasonable application of clearly
9 established United States Supreme Court law. Respondent specifically denies that the trial court
10 erred in finding petitioner competent and admitting evidence of Child Sexual Abuse
11 Accommodation Syndrome, that petitioner was denied the effective assistance of counsel, and that
12 petitioner was denied his Sixth Amendment rights by the imposition of upper term sentences.

IV.

LODGED DOCUMENTS

15 Respondent has lodged concurrently with this answer the following exhibits: (1)
16 Clerk's Transcript (5 volumes); (2) Supplemental Clerk's Transcript (1 volume); (3) Reporter's
17 Transcript (7 volumes); (4) Supplemental Reporter's Transcript (4 volumes); (5) Appellant's
18 Opening Brief; (6) Respondent's Brief; (7) Appellant's Reply Brief; (8) Opinion by California
19 Court of Appeal; (9) Petition for Review; and (10) Order denying review by California Supreme
20 Court.

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INCORPORATION BY REFERENCE

23 Respondent hereby incorporates by reference the accompanying memorandum of
24 points and authorities in support of this answer.

VI.

CONCLUSION

27 Respondent respectfully requests that the petition for writ of habeas corpus be denied.

1 Dated: July 11, 2008

2 Respectfully submitted,

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